UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,112	12/29/2000	Robert J. Duncan	061473 0270171	8220

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EXAMINER
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ART UNIT	PAPER NUMBER
2126	

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/752,112	DUNCAN ET AL.
	Examiner	Art Unit	
	VAN H NGUYEN	2126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 October 2004</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is in response to the request for continued examination filed October

07, 2004.

2.   Claims 1-20 are currently presented in this application. Claims 1 and 11 are independent

claims.

Continued Examination Under 37 CFR 1.114

3.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR

1.17(e) has been timely paid, the finality of the previous Office action has been

withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 19, 2004 has

been entered.

Double Patenting

4.   **Obviousness-type double patenting rejection**

The nonstatutory double patenting rejection is based on a judicially created doctrine

grounded in public policy (a policy reflected in the statute) so as to prevent the

unjustified or improper timewise extension of the "right to exclude" granted by a patent

and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d

1046, 29 USPQ2d 2010 (Fed. CIT. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645

(Fed. Cir. 1985); In re van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re

Uogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington,418 F.2d 528,

163 USPQ 644 (CCPA 1969).

5.   A timely filed terminal disclaimer in compliance with 37 C.F.R. ' 1.321(b) would

overcome an actual or provisional rejection on this ground provided the conflicting

application or patent is shown to be commonly owned with this application. See 37

C.F.R. ' 1.78(d).

6.   Effective January 1, 1994, a registered attorney or agent of record may sign a terminal

disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR

3.73(b).

7.   Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double

patenting as being unpatentable over claims 1-12 of application 09/753,080 filed

December 29, 2000.

8.   Although the conflicting claims are not identical, they are not patentably distinct from

each other because the instant application claims a method for classifying a remote

procedure call while the copending application claims a nearly identical method for

classifying a remote method invocation. RMI is Java's remote procedure call mechanism.

9.   This is a provisional obviousness-type double patenting rejection because the conflicting

claims have not in fact been patented.

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth
> in section 102 of this title, if the differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

11.   Claims 1-6, 8-16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable

over **Moore et al.** (U.S. 6, 408,342) in view of **Pettus** (U.S. 6, 223,217).

12.   **As to claim 1**:

A.   Moore teaches the invention substantially as claimed including a method for

classifying a remote procedure call *(e.g., the RPC_Client 311; col.10, lines 40-41*

and fig.5) that initiates connections to a remote server *(e.g., the RPC_Server 315;*

col.10, lines 40-41 and fig.5) using a client *(e.g., Client 301; fig.5)* and underlying

remote procedure call transport code *(e.g., the apply () function of the*

RPC_Transport 305; col.10, lines 36-38), the method comprising:

(i)   detecting when a connection carrying high value data for the remote

procedure call is created *(e.g., binding an RPC_Transport305 to the*

communication framework 257...creating the binding dynamically when

the application 251 is executed; col. 8, lines 30-36 and 53-55);

(ii)   using a side channel to communicate flow information associated with the

detected connection to a classifying router *(e.g., the RPC_Client 311*

established a protocol-specific binding to the RPC_Server 315...the

identifier for the target object...the communication channel; col. 10, lines

40-63 and col.13, lines 11-27); the flow information including a port

number associated with the communication *(e.g., this simple*

RPC_Transport 305 use...the port number of the remote TCP/IP

endpoints; col.58, lines 1-6 and Table A-16);

(iii)   incorporating the flow information into a differentiated services

classification subsystem of the classifying router *(e.g., the apply () call*

may receive a Callinfo argument...that is a collection of Quality of Service

(QoS) parameters... In initiating a call, the Stub 303 may put in a request

for a particular QoS requirement... the protocol with the matching the

Quality of Service required by the Stub 303 is selected; col.19, lines 15-

46).

B.   Moore does teach incorporating the flow information into a differentiated services

classification subsystem of the classifying router. Moore, however, does not

specifically teach associating a quality service level to the detected connection in

accordance with the flow information.

C.   Pettus teaches associating a quality service level to the detected connection in

accordance with the flow information *(e.g., Specifically, the RPC objects*

comprise a "caller" object which, once instantiated, accepts service requests from

client objects; see the abstract).

D.   It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine the teachings of Pettus and Moore because

Pettus' teaching would have provided the capability for efficiently implementing

remote procedure call mechanism in client-server systems of distributed service

networks so that service requests generated by a client object can be satisfied by a

server object.

13.   **As to claim 2:**

Moore teaches providing an API to calling applications; detecting when applications call

the API *(col.7, line 63-col.8, line 8)*; and executing a remote procedure routine based on a

call by an application *(col.11, lines 51-56).*

14.   **As to claim 3:**

Moore teaches accessing a remote procedure call API *(e.g., in creating a remote*

procedure call, the client 301, using a defined applications program interface...execute

in the first process 101a; col.8,.lines 53-56); and the API provided to calling applications

includes functionality duplicative of remote procedure call API functionality *(col.8, line*

56-col.9, line 5).

15.   **As to claim 4:**

Moore teaches accessing a remote procedure call API *(e.g., in creating a remote*

procedure call, the client 301, using a defined applications program interface...execute

in the first process 101a; col.8, lines 53-56); and the API provided to calling applications

presents an interface duplicative of the remote procedure call API to calling applications

(see fig.3 and the associated text).

16.   **As to claim 5:**

Moore teaches obtaining flow information from an application call to the API *(col.7, line*

63-col.8, line 8; and providing the flow information to the classifying router via the side

channel *(col.10, lines 54-65; and col. 13, lines 11-27)*.

17.   **As to claim 6:**

Moore teaches Media Access Control and Internet Protocol addresses *(e.g., location*

addresses; col.17, lines 22-35) and MAC and IP port numbers *(e.g., port number; col.17,*

lines 22-35), and TCP protocol type for the connection *(e.g., TCP/IP connection; col.7,*

lines 12-19 and col.22, lines 1-11).

18.   **As to claim 8:**

It includes the same limitations as claim 6 above, and is similarly rejected under the same

rationale.

19.   **As to claim 9:**

Moore teaches using the flow information to determine a differentiated services

classification for the connection *(col.19 lines 15-24)*; and marking traffic delivered to the

connection by the classifying router based on the classification *(col.19 line 30-46)*.

20.   **As to claim 10:**

Moore teaches detecting the identity of the client making the remote procedure call, the

flow information further containing this detected identity *(col.8, lines 59-62 and col.9,*

lines 34-41).

21.   **As to claims 11-16 and 18-20:**

Note the rejection of claims 1-6 and 8-10 above. Claims 11-16 and 18-20 are the same as

claims 1-6 and 8-10, except claims 11-16 and 18-20 are apparatus claims and claims 1-6

and 8-10 are method claims.

22.   Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Moore**

in view of in view of **Pettus** as applied to claims 1 and 11 above and further in view of

Riddle et al. (U.S.6,412,000 B1). Riddle was cited by Examiner in the previous Office

Action.

23.   **As to claim 7:**

A.   The combination of Moore and Pettus does not explicitly teach a *Common

Gateway Interface* script.

B.   Riddle teaches a CGI script (*e.g., A Common Gateway Interface (CGI) script

col.6, lines 43-62*).

C.   It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine the teachings of Riddle and Moore as modified

by Pettus because Riddle's teaching would have provided the capability for

enabling information from user clients to be acted upon by a web server.

24.   **As to claim 17:**

Note the discussion of claim 7 above for rejection.

Response to Arguments

25.   Applicant's arguments with respect to claims 1-20 have been fully considered, but are

deemed to be moot in view of the new grounds of rejection.

Conclusion

26.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to VAN H. NGUYEN whose telephone number is (571)

272-3765. The examiner can normally be reached on Monday-Thursday from 8:30AM -

6:00PM. The examiner can also be reached on alternative Friday.

27.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng-Ai An can be reached on (571) 272-3756.

28.   The fax phone number for the organization where this application or proceeding is

assigned is 703-872-9306.

29.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:
Commissioner for patents
P O Box 1450
Alexandria, VA 22313-1450

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